IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.NO. 2277 OF 2003

BETWEEN

Vishwa Bharat Bunkar S/o Makhan Lal Bunkar, aged about 39 years, Secretary Gram Panchayat Pipar Khuti, Tehsil Lormi, Janpad Panchayat Lormi, resident of Village Nawalpur, Gram Panchayat Khuti, Tehsil Lormi, District Bilaspur (CG).

P. R. No. 9306 dated 18.03.03 Presented by Shri Rakesh Pathak

PETITIONER

A N D

1. The State of Chhattisgarh, Through the Secretary Department of Panchayat Mantralay, D.K.S. Building Raipur, Tehsil and District Raipur (CG).

2. The Additional Collector, Bilaspur, Tehsil and District Bilaspur (CG).

3. The Sub Divisional Officer (Revenue) Lormi, District Bilaspur (CG).

4. Girdhari S/o Baderwa, Sarpanch, Gram Panchayat Piparkhuti, resident of Village Hadgaon Vikas Khand Lormi, District Bilaspur.

5. Shiv Kumar Dhruv S/o Bahoran Singh Dhruv resident of village Piparkhuti, Vikas Khand Lormi, District Bilaspur (CG).

RECEIVED COPY 18/3/03 CLERK TO A.G. BILASPUR

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(49)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 2277/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26-08-2003 Heard Shri P.S.Chandel counsel for the petitioner. By this Writ Petition filed under Articles 226/227 of the Constitution of India the petitioner seeks to challenge the order dated 29.4.2003 (Annexure P-1) passed by the Additional Collector, Bilaspur in Case No. 26/Sa-144/00-01 by which the application of the petitioner for adding him as party in the appeal preferred by respondent No.4, the Sarpanch of Gram Panchayat Piparkhuti against the order of respondent No.3 passed on 23.4.2001, was rejected. By order dated 23.4.2001 the respondent No.3, the S.D.O Lormi, allowed the appeal of respondent No.5 and set-aside his removal from the Post of Panchayat Karmi, Sachiv. In the petition it has been prayed that by allowing the petition the impugned order (Annexure P-1) by which the application of the petitioner was rejected, be quashed and the petitioner be allowed to be added in the array of the respondent as necessary party and to hear the appeal afresh. I have heard learned counsel for the petitioner. Counsel for the petitioner submitted that respondent No.5 was working as Panchayat Karmi Sachiv of Gram Panchayat Piparkhuti and as he was removed from the Post of Panchayat Karmi Sachiv, a notification was issued intiviting the applications for the said post. Accordingly, the respondent No.5 along with other persons applied for the post vide annexure P-2 and thereafter vide resolution of	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No.2277/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Annexure P-3 the petitioner was appointed as Panchayat Karmi Sachiv against the vacancy accrued by the removal of respondent No.5 namely Shivkumar Dhruv. In the meantime, respondent No.5 filed an appeal before the Sub Divisional Officer, Lormi against the order of his removal and subsequently the SDO Lormi set-aside the removal order passed against respondent No.5 vide order dated 23.4.2001 in which the petitioner was not a party. Against the order dated 23.4.2001 passed by the SDO, Lormi, respondent No.4 herein filed an appeal before respondent No.2. However, the appeal filed by respondent No.4 was withdrawn. Since the appeal filed by respondent No.4 was withdrawn in collusion with respondent No.5, the petitioner moved an application before the Additional Collector to add him as necessary party because his interest was affected.

It is not disputed that prior to the petitioner, respondent No.5 was working as Panchayat Karmi, Sachiv and the petitioner was appointed only against the vacancy accrued by the removal of respondent No.5 by the Panchayat. Against that order the respondent No.5 filed an appeal before the SDO Lormi and the SDO, Lormi set-aside that order in appeal vide order dated 23.4.2001. Being aggrieved by the order dated 23.4.2001 passed by the SDO, Lormi, the respondent No.4 filed an appeal before the respondent No.2, the Additional Collector, Bilaspur and ultimately the said appeal was dismissed as withdrawn on 24.2.2003 as respondent No.4 moved an application to this effect.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 2277 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In my opinion, the petitioner got the appointment only against the vacancy accrued by the removal of respondent No.5 and against which the respondent No.5 had filed an appeal also and therefore, the petitioner was not a necessary party in any way. Indirectly, the petitioner's interest might be there because if the appeal of respondent No.5 was allowed then the appointment of the petitioner may be in jeoparady. But that does not give the petitioner any right to become party in the matter in which the issue involved was regarding the removal of the respondent No.5 by the Panchayat. That was a dispute between the Panchayat and the respondent No.5 and therefore, in any way the petitioner can not be termed as necessary party in that appeal and the application of the petitioner was rightly rejected by respondent No.2 by order dated 29.4.2003.

Thus, I do not find any substance in the instant petition and the same is liable to be dismissed. It is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge